In the High Court of Judicature at Madras

Dated: 21.12.2006

Coram:

The Honourable Mr.Justice P.SATHASIVAM
and
The Honourable Mr.Justice S.TAMILVANAN

Writ Appeal No.2284 of 2002
and
WAMP.Nos.3898 of 2002 and 3170 of 2004

The Sub-Registrar,
Sub-Registrar's Office,
Ashok Nagar,
Chennai-83. ..Appellant

..vs..

1. K.Kandamaran

2. The Tamil Nadu Housing Board,
rep.by its Manager (Marketing & Service),
Kalaignar Karunanidhi Nagar
Division, Chennai-83. ..Respondents

Writ Appeal filed under Clause 15 of the Letters Patent, against the Order passed in W.P.No.19791 of 2002 dated 10.06.2002.

For Appellant : Mr.A.Edwin Prabhakar,
Govt.Advocate

For Respondents : Mrs.Selvi George for R1
Mr.S.Kasi Kumar for
Mr.K.Chelladurai for R2

JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM, J.,)

Aggrieved by the order of the learned single Judge dated 10.06.2002 made in W.P.No.19791 of 2002, the Sub Registrar, Ashok Nagar, Chennai-83, has filed the above appeal.

2. Heard the learned Government Advocate appearing for the appellant as well as the contesting first respondent.

3. In view of the order to be passed hereunder, we are of the view that it is unnecessary to refer all the factual details. The learned Judge, while considering the relief prayed in the writ petition, following the order of this Court dated 12.11.2001 made in W.P.No.17872 of 2001, allowed the writ petition and directed the second respondent therein to release the document after collecting stamp duty with reference to the plots only.

4. It is brought to our notice that the Government itself taking note of the grievance of similar allottees of the plots of the Housing Board, issued Government Orders/Instructions/Clarifications that stamp duty need be paid only to plots and not to structures therein, vide (1) G.O.Ms.No.226, Commercial Taxes(JI) Department dated 15.12.2003 and appended Notification, (2)G.O.Ms.No.94, Commercial Taxes Department(JI) dated 18.05.2004 and the Notification therein, (3) G.O.(Ms.)No.127, Commercial Taxes(JI) Department, dated 10.08.2004 and the Notification therein, (4) Letter No.12657/J2/2006-1 dated 11.08.2006 of the Commercial Taxes Department and Registration Department, Government of Tamil Nadu addressed to the Inspector General of Registration, Chennai-28 and (5) Letter No.13346/J2/2005-8 dated 17.05.2006 of the same Department addressed to the same Officer, namely, Inspector General of Registration, Chennai-28.

5. On going through the above Orders/Proceedings/ Clarifications, we are in agreement with the conclusion arrived at by the learned Judge and the stand taken in the Writ appeal cannot be accepted. Consequently, the Writ Appeal fails and the same is dismissed. No costs. In view of the present order dismissing the appeal, the direction issued by this Court in WAMP.No.3170 of 2004 dated 23.04.2004 stands cancelled and the miscellaneous petitions are closed.

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To

The Manager (Marketing & Services),
Tamil Nadu Housing Board,
Kalaignar Karunanidhi Nagar
Division, Chennai-83.